

AMENDED IN ASSEMBLY APRIL 18, 2016

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CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2025

Introduced by Assembly Member Gonzalez
(Coauthors: Assembly Members Chiu and Ting)
(Coauthor: Senator Nguyen)

February 16, 2016

An act to amend Sections 7312, 7314, 7362, and 7401 of, to add Section 7396.1 to, and to repeal Section 7347 of, the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL’S DIGEST

AB 2025, as amended, Gonzalez. Barbering and cosmetology: labor law education requirements.

Existing law, the Barbering and Cosmetology Act, establishes the State Board of Barbering and Cosmetology for the licensure and regulation of barbers, cosmetologists, estheticians, manicurists, electrologists, and apprentices. Existing law requires the board to carry out a list of duties including making rules and regulations, conducting and administering license examinations, issuing licenses to qualified applicants, and disciplining persons who violate the act.

This bill would require that the board offer and make available all written materials provided to licensees and applicants in English, Spanish, and Vietnamese.

Existing law requires the licensure of any person, firm, or corporation operating an establishment engaged in a practice regulated by the board. Existing law requires a separate license for each location where the

establishment operates. Existing law requires applicants to submit an application, accompanied by a prescribed fee. Existing law prohibits the board from issuing a license to any applicant who has committed specified acts or crimes which are grounds for denial of licensure in effect at the time the new application is submitted.

This bill would require *that, on or before January 1, 2018*, the board ~~to~~ require as a condition of licensure to operate an establishment that the applicant has the knowledge of basic labor laws, as defined, that pertain to the types of licensees who may work in the establishment. The bill would require the board, in consultation with the Department of Industrial Relations, to develop and add questions on basic labor law to the application for a license to operate an establishment. The bill would require the board, in consultation with the Department of Industrial Relations and stakeholders, to select or create informational materials on basic labor law that the board determines to be practical and accessible to applicants. The bill would require the board to require, as part of a complete application, a signed acknowledgment that the applicant understands the informational materials on basic labor laws and that establishments are responsible for obeying the labor laws of the State of California.

Existing law requires the board to keep a registration record of each licensee containing the name, address, license number, date issued, and any facts that the applicant may have stated in the application for examination for licensure.

This bill would require the board, beginning January 1, 2018, to collect, through optional questions on the application to operate an establishment, demographic information of each applicant, including her or his preferred language preference.

Existing law requires the board to admit to a licensing examination an applicant who meets certain qualifications, including having completed one or more courses, as specified, offered by a school approved by the board. Existing law requires the board to determine by regulation the required subjects of instruction to be completed in all approved courses.

This bill would require the labor laws that pertain to the types of licensees who may work in establishments to be among these required subjects.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 7312 of the Business and Professions Code is amended to read:

7312. The board shall do all of the following:

(a) Make rules and regulations in aid or furtherance of this chapter in accordance with the Administrative Procedure Act.

(b) Conduct and administer examinations of applicants for licensure.

(c) Issue licenses to those applicants that may be entitled thereto.

(d) Discipline persons who have been determined to be in violation of this chapter or the regulations adopted pursuant to this chapter.

(e) Adopt rules governing sanitary conditions and precautions to be employed as are reasonably necessary to protect the public health and safety in establishments, schools approved by the board, and in the practice of any profession provided for in this chapter. The rules shall be adopted in accordance with the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Title 2 of the Government Code, and shall be submitted to the State Department of Health Care Services and approved by that department prior to filing with the Secretary of State. A written copy of all those rules shall be furnished to each licensee.

(f) Offer and make available all written materials provided to licensees and applicants in English, Spanish, and Vietnamese.

SEC. 2. Section 7314 of the Business and Professions Code is amended to read:

7314. The board shall keep a record of its proceedings relating to its public meetings, meetings of committees, and records relating to the issuance, refusal, renewal, ~~suspension~~ *suspension*, and revocation of licenses.

The board shall keep a registration record of each licensee containing the name, address, license number and date issued. This record shall also contain any facts that the applicants may have stated in their application for examination for licensure. Beginning January 1, 2018, the board shall collect, through optional questions on the applications for a license issued pursuant to Section 7396.1, the demographic information of each applicant including, but not limited to, her or his spoken and written language preference.

1 SEC. 3. Section 7347 of the Business and Professions Code is
2 repealed.

3 SEC. 4. Section 7362 of the Business and Professions Code is
4 amended to read:

5 7362. (a) A school approved by the board is one that is first
6 approved by the board and subsequently approved by the Bureau
7 for Private Postsecondary Education or is a public school in this
8 state, and provides a course of instruction approved by the board.
9 However, notwithstanding any other law, both the board and the
10 Bureau for Private Postsecondary Education may simultaneously
11 process a school's application for approval.

12 (b) The board shall determine by regulation the required subjects
13 of instruction to be completed in all approved courses, including
14 the minimum hours of technical *instruction and* minimum number
15 of practical operations for each subject, and shall determine how
16 much training is required before a student may begin performing
17 services on paying patrons. The labor laws that pertain to the types
18 of licensees who may work in establishments shall be among the
19 required subjects to be completed.

20 (c) Notwithstanding any other law, the board may revoke,
21 suspend, or deny approval of a school, in a proceeding that shall
22 be conducted in accordance with Chapter 5 (commencing with
23 Section 11500) of Part 1 of Division 3 of Title 2 of the Government
24 Code, when an owner or employee of the school has engaged in
25 any of the acts specified in paragraphs (1) to (8), inclusive.

26 (1) Unprofessional conduct which includes, but is not limited
27 to, any of the following:

28 (A) Incompetence or gross negligence, including repeated failure
29 to comply with generally accepted standards for the practice of
30 barbering, cosmetology, or electrology, or disregard for the health
31 and safety of patrons.

32 (B) Repeated similar negligent acts.

33 (C) Conviction of any crime substantially related to the
34 qualifications, functions, or duties of the owner of an approved
35 school, in which case, the records of conviction or a certified copy
36 thereof shall be conclusive evidence of the conviction.

37 (2) Repeated failure to comply with the rules governing health
38 and safety adopted by the board and approved by the State
39 Department of Public Health, for the regulation of board-approved
40 schools.

1 (3) Repeated failure to comply with the rules adopted by the
2 board for the regulation of board-approved schools.

3 (4) Continued practice by a person knowingly having an
4 infectious or contagious disease.

5 (5) Habitual drunkenness, or habitual use of, or addiction to the
6 use of, any controlled substance.

7 (6) Obtaining or attempting to obtain practice in any occupation
8 licensed and regulated under this chapter, or money, or
9 compensation in any form, by fraudulent misrepresentation.

10 (7) Refusal to permit or interference with an inspection
11 authorized under this chapter.

12 (8) Any action or conduct that would have warranted the denial
13 of a school approval.

14 SEC. 5. Section 7396.1 is added to the Business and Professions
15 Code, to read:

16 7396.1. (a) Any person, firm, or corporation desiring to operate
17 an establishment shall make an application to the board for an
18 establishment license accompanied by the fee prescribed by this
19 chapter. The application shall be required whether the person, firm,
20 or corporation is operating a new establishment or obtaining
21 ownership of an existing establishment. If the applicant is obtaining
22 ownership of an existing establishment, the board may establish
23 the fee in an amount less than the fee prescribed by this chapter.
24 A license issued pursuant to this section shall authorize the
25 operation of the establishment only at the location for which the
26 license is issued. Operation of the establishment at any other
27 location shall be unlawful unless a license for the new location
28 has been obtained upon compliance with this section, applicable
29 to the issuance of a license in the first instance.

30 (b) ~~The~~ *On or before January 1, 2018, the* board shall require
31 as a condition of licensure pursuant to subdivision (a) that the
32 applicant meets the following requirements:

33 (1) The applicant, if an individual, or each officer, director, and
34 partner, if the applicant is other than an individual, shall not have
35 committed acts or crimes that are grounds for denial of licensure
36 in effect at the time the new application is submitted pursuant to
37 Section 480.

38 (2) The applicant has knowledge of basic labor laws that pertain
39 to the types of licensees who may work in the establishment. For

purposes of this section, the definition of the term “basic labor laws” shall include, but not be limited to:

(A) Key differences between the legal rights, benefits, and obligations of an employee and an independent contractor.

(B) Wage and hour rights for hourly employees.

(C) Antidiscrimination laws relating to the use of a particular language in the workplace.

(D) Antiretaliation laws relating to a worker’s right to file complaints with the Department of Industrial Relations.

(E) How to obtain more information about labor law from the Department of Industrial Relations.

(c) To ensure that applicants for an establishment license have the knowledge of basic labor laws pursuant to paragraph (2) of subdivision (b) the board shall do all of the following:

(1) In consultation with the Department of Industrial Relations, the board shall develop and add questions on basic labor laws to the application.

(2) In consultation with the Department of Industrial Relations and stakeholders, the board shall select or create informational materials on basic labor laws that the board determines to be practical and accessible to applicants.

(3) As part of a complete application, the board shall require a signed acknowledgment that the applicant understands both of the following:

(A) Establishments are responsible for obeying the labor laws of the State of California.

(B) The informational materials on basic labor laws selected or created by the board pursuant to paragraph (2) of subdivision (c).

SEC. 6. Section 7401 of the Business and Professions Code is amended to read:

7401. (a) An individual licensed pursuant to Section 7396 shall report to the board at the time of license renewal, his or her practice status, designated as one of the following:

(1) Full-time practice in California.

(2) Full-time practice outside of California.

(3) Part-time practice in California.

(4) Not working in the industry.

(5) Retired.

(6) Other practice status, as may be further defined by the board.

1 (b) An individual licensed pursuant to Section 7396 shall, at the
2 time of license renewal, identify himself or herself on the
3 application as one of the following:

4 (1) Employee.

5 (2) Independent contractor or booth renter.

6 (3) Salon owner.

7 (c) An individual licensed pursuant to Section 7396.1 shall
8 report to the board at the time of license renewal, whether either
9 of the following is applicable to him or her:

10 (1) He or she has a booth renter operating in the establishment.

11 (2) He or she has an independent contractor operating in the
12 establishment.

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